

House File 2046 - Introduced

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A BILL FOR

1 An Act requiring drug testing of applicants for the family
2 investment program.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 239B.2C Drug testing for
2 applicants.

3 1. For the purposes of this section, unless the context
4 otherwise requires:

5 a. "*Confirmed positive test result*" means the results of
6 a urine, oral fluid, or blood test in which the level of
7 controlled substances or their metabolites in the sample
8 analyzed meets or exceeds nationally accepted standards for
9 determining detectable levels of controlled substances as
10 adopted by the federal substance abuse and mental health
11 services administration. If nationally accepted standards for
12 oral fluid tests have not been adopted by the federal substance
13 abuse and mental health services administration, the standards
14 for determining detectable levels of controlled substances for
15 purposes of determining a confirmed positive test result shall
16 be the same standard that has been established by the federal
17 food and drug administration for the measuring instrument used
18 to perform the oral fluid test.

19 b. "*Licensed substance abuse treatment program*" means an
20 inpatient or outpatient substance abuse treatment program
21 licensed by the department of public health under chapter 125.

22 c. "*Sample*" means a sample from the human body capable of
23 revealing the presence of drugs, or their metabolites, which
24 shall include only urine, saliva, or blood.

25 2. a. The drug testing requirements of this section apply
26 to the following applicants for assistance under this chapter:

27 (1) Each adult parent, guardian, or specified relative who
28 is included in the applicant family, including both parents of
29 a two-parent family, or an individual who may be exempt from
30 work activity requirements due to the age of the youngest child
31 or who may be exempt from work activity requirements under the
32 PROMISE JOBS program.

33 (2) A minor parent who is not required to live with a
34 parent, guardian, or other adult caretaker in accordance with
35 this chapter.

1 *b.* Dependent children under the age of eighteen years are
2 exempt from the drug testing requirements of this section.

3 *c.* The department shall require a drug test that is similar
4 to a drug test as a condition of employment under section
5 730.5 to screen each applicant subject to this section for
6 the presence of controlled substances. The applicant is
7 responsible for the cost of the applicant's drug test.

8 3. *a.* An applicant who is subject to this section is
9 ineligible to receive assistance under this chapter if the
10 applicant does not participate in the required drug testing.

11 *b.* An applicant who is subject to this section is ineligible
12 to receive assistance under this chapter if the applicant has a
13 confirmed positive test result for the presence of either of
14 the following:

15 (1) A substance listed in schedule I under section 124.204.

16 (2) A substance listed in schedule II, III, or IV under
17 chapter 124 that was not prescribed for the applicant.

18 *c.* The period of ineligibility for an applicant who is
19 ineligible for assistance under paragraph "b" is one year after
20 the date of the confirmed positive test result.

21 4. The department shall do all of the following in
22 implementing this section:

23 *a.* (1) Provide notice of drug testing to each applicant
24 who is subject to this section at the time of application. The
25 notice must advise the applicant that drug testing will be
26 conducted as a condition for receiving assistance under this
27 chapter and that the applicant must bear the cost of testing.
28 If the applicant's drug test does not have a confirmed positive
29 test result, the department shall increase the amount of the
30 initial cash assistance benefit by the amount paid by the
31 applicant for the drug testing. The applicant shall be advised
32 that the required drug testing may be avoided if the applicant
33 does not complete or withdraws the application for assistance.

34 (2) Advise each applicant to be tested, before the test
35 is conducted, that the applicant may, but is not required to,

1 advise the agent administering the test of any prescription or
2 over-the-counter medication the applicant is taking.

3 (3) Require each applicant to be tested to sign a written
4 acknowledgment that the applicant has received and understood
5 the notice and advice provided under this paragraph "a".

6 b. Assure each applicant being tested a reasonable degree
7 of dignity while producing and submitting a sample for drug
8 testing, consistent with the department's need to ensure the
9 reliability of the sample.

10 c. Specify circumstances under which an applicant with a
11 confirmed positive test result has the right to take one or
12 more additional tests.

13 d. Inform an applicant who has a confirmed positive test
14 result and is deemed ineligible for assistance that the
15 applicant may not reapply for assistance until one year after
16 the date of the confirmed positive test result unless the
17 applicant meets the requirements of paragraph "f". If the
18 applicant has a subsequent confirmed positive test result,
19 the applicant shall be ineligible to receive assistance for
20 three years after the date of the subsequent result unless the
21 individual meets the requirements of paragraph "f".

22 e. Provide any applicant with a confirmed positive test
23 result with a list of licensed substance abuse treatment
24 programs available in the area in which the applicant resides.
25 Neither the department nor the state is not responsible for
26 providing or paying for substance abuse treatment as part of
27 the screening conducted under this section.

28 f. An applicant with a confirmed positive test result who is
29 denied assistance under this chapter may reapply for assistance
30 after six months if the individual can document the successful
31 completion of a licensed substance abuse treatment program. An
32 applicant who has met the requirements of this paragraph and
33 reapplies for assistance must also pass the initial drug test
34 required under subsection 2. Any drug test conducted while the
35 individual is undergoing substance abuse treatment must meet

1 the requirements for a drug test under subsection 2. The cost
2 of any drug testing or substance abuse treatment provided under
3 this subsection shall be the responsibility of the individual
4 being tested or receiving treatment. An individual with a
5 confirmed positive test result from the drug test required
6 under subsection 2 may reapply for assistance under this
7 paragraph only once.

8 5. If an applicant parent is deemed ineligible for
9 assistance as a result of having a confirmed positive test
10 result from a drug test conducted under this section, all of
11 the following apply:

12 a. The eligibility of the applicant's dependent child for
13 assistance is not affected.

14 b. An appropriate protective payee shall be designated
15 to receive assistance on behalf of the dependent child. The
16 applicant parent may choose to designate an individual as the
17 protective payee. The individual designated by the applicant
18 parent as the protective payee must be a specified relative
19 or other immediate family member unless such family member is
20 not available or the family member declines the designation.
21 In which case another individual, approved by the department,
22 shall be designated as the protective payee. The individual
23 must also undergo drug testing before being approved to be
24 the protective payee. If the designated individual has a
25 confirmed positive test result, the designated individual shall
26 be ineligible to be the protective payee.

27 6. The department shall adopt rules to implement this
28 section.

29 EXPLANATION

30 This bill requires drug testing of applicants for the
31 family investment program (FIP) in new Code section 239B.2C.
32 The program provides cash assistance and employment-related
33 services to low-income families with children under the federal
34 temporary assistance for needy families (TANF) block grant.
35 The department of human services administers the program and

1 block grant for this state.

2 The bill utilizes the following terms that are defined in
3 Code section 239B.1:

4 "Applicant" means a person who files an application for
5 participation in FIP under Code chapter 239B.

6 "Assistance" means a FIP payment.

7 "Family" means a family unit that includes at least one
8 child and at least one parent or other specified relative of
9 the child.

10 "Minor parent" means an applicant or participant parent who
11 is less than 18 years of age and has never been married.

12 "PROMISE JOBS program" or "JOBS program" means the promoting
13 independence and self-sufficiency through employment job
14 opportunities and basic skills program, a part of FIP.

15 "Specified relative" means a person who is, or was at any
16 time, a relative of an applicant or participant child, by means
17 of blood relationship, marriage, or adoption, or is a spouse of
18 a relative listed in the definition.

19 The bill defines "confirmed positive test result", "licensed
20 substance abuse treatment program", and "sample".

21 The drug testing requirement applies to each applicant for
22 FIP assistance who is an adult parent, guardian, or specified
23 relative who is included in the applicant family, including
24 both parents of a two-parent family, or an individual who may
25 be exempt from work activity requirements due to the age of
26 the youngest child or who may be exempt from work activity
27 under the PROMISE JOBS program. The requirement also applies
28 to each minor parent applicant who is not required to live
29 with a parent, guardian, or other adult caretaker. Dependent
30 children under the age of 18 years are exempt from the drug
31 testing requirements. The department is directed to require a
32 drug test of each applicant who is subject to the requirements
33 to screen for the presence of controlled substances. The
34 applicant is responsible for the cost of the drug test.

35 An applicant who does not participate in the required

1 drug testing is ineligible for cash assistance through
2 FIP. An applicant who has a confirmed positive test result
3 is ineligible for one year unless the test result was
4 for a controlled substance for which the applicant has a
5 prescription.

6 The department is required to do all of the following
7 in administering the drug testing requirement: implement
8 notification provisions; allow for additional testing following
9 a confirmed positive test result; apply a three-year period of
10 ineligibility if an applicant reapplies but has a subsequent
11 confirmed positive test result; provide a listing of licensed
12 substance abuse treatment programs available in the area of an
13 applicant's residence if the applicant has a confirmed positive
14 test result; and allow for an applicant who has a confirmed
15 positive test result to reapply one time after six months if
16 the applicant provides documentation of completing a licensed
17 substance abuse treatment program within six months of the
18 confirmed positive test result and passes another drug test.

19 If a parent is deemed ineligible for assistance as a result
20 of having a confirmed positive test result, the dependent child
21 remains eligible for assistance and a protective payee is to be
22 designated by the parent to receive the assistance on behalf of
23 the child. If a specified relative or other immediate family
24 member declines to be designated, the department must designate
25 the protective payee. The protective payee is then subject
26 to drug testing before being approved to receive assistance
27 on behalf of the child. A protective payee with a confirmed
28 positive test result is ineligible to receive assistance on
29 behalf of the child.

30 The department is required to adopt rules to implement the
31 new requirements.